

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

U.S. BANK NATIONAL ASSOCIATION,

Plaintiff,

NO. C04-5623RBL

v.

EEL RIVER INVESTMENT COMPANY,  
STERNE, AGEE & LEACH, INC., et al,

ORDER

Defendants.

Before the Court is the issue of how best to proceed with this litigation in the aftermath of the Ninth Circuit's remand of the case for further proceedings. Specifically, the Ninth Circuit suggested that the Trial Court might "consider additional relevant evidence from the parties".

The Ninth Circuit's invitation triggered a motion by U.S. Bank to reinstate its jury demand and seek a new trial. [Dkt. #420] The Court has considered the plaintiff's motion and rejects the suggestion that a new trial is either mandated or otherwise made necessary by the Ninth Circuit's decision. The motion is **DENIED**.

At the request of the Court, the parties have outlined the additional evidence they would like to put before the Court in what can best be described as a supplemental trial proceeding. The Court estimates that the requested testimony can be presented in three trial days. The Court suggests the following dates: December 29, 30 and 31 (first setting), or January 12, 13 and 14, 2009 (trailing). U.S. Bank will put its witnesses on first and Sterne, Agee will put Mr. Liles on at the conclusion of plaintiff's case.

1 The Court will look favorably on any request to conduct depositions of the witnesses listed in the  
2 parties' submittals to the Court.

3 The parties are invited to confer and agree upon the desired trial schedule and to inform the Clerk  
4 of the Court at your earliest convenience.

5 Finally, the Bill of Costs submitted by plaintiff [Dkt. #149] is **DENIED** without prejudice.

6 DATED this 2<sup>nd</sup> day of October, 2008.  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE